



Paper No. 32

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OFFICE OF PETITIONS

In re Application of
Williamson, et al.
Application No. 09/299,068
Filed: April 23, 1999
Attorney Docket No. 25932-5

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2003, to revive the above-identified application on the basis of unintentional delay.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the Office action mailed April 25, 2002, which set a shortened statutory period for reply of three months. On October 15, 2002, applicant obtained a three month extension of time and filed a Continued Prosecution Application (CPA). However, the CPA was not proper because the application contained an earlier CPA that was filed after May 29, 2000.¹ Accordingly, the CPA was treated as a Request for Continued Examination (RCE) under 37 CFR 1.114. However, the RCE was not proper because it was not accompanied by a submission. A Notice of Improper RCE was mailed on October 24, 2002. No proper reply to the final Office action having been received, the above identified application became abandoned on October 26, 2002. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.²

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply, a submission (amendment) to accompany the RCE, was previously filed on December 5, 2002.

¹ The earlier filed CPA was filed on November 13, 2001.

² "Abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment." See MPEP 711.03(c)(III)(D).

The petition fee of \$650 has been charged to Deposit Account No. 04-0258, as authorized.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1714, for consideration of the RCE and the submission (amendment) by the examiner.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions